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Attorneys for Defendants Internet Archive, Brewster Kahle, George Blood, and George Blood L.P.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

13 UMG RECORDINGS, INC., CAPITOL
14 RECORDS, LLC, CONCORD BICYCLE
15 ASSETS, LLC, CMGI RECORDED MUSIC
ASSETS LLC, SONY MUSIC
ENTERTAINMENT, and ARISTA MUSIC,

Plaintiffs,

18 | v

20 INTERNET ARCHIVE, BREWSTER
KAHLE, KAHLE/AUSTIN FOUNDATION,
GEORGE BLOOD, and GEORGE BLOOD
21 L.P..

22 | Defendants.

Case No. 3:23-cv-06522-MMC

**[PROPOSED] ORDER GRANTING
DEFENDANTS INTERNET ARCHIVE,
KAHLE, BLOOD, AND GEORGE BLOOD
L.P.'S REQUEST FOR INCORPORATION
OF DOCUMENTS BY REFERENCE AND
FOR JUDICIAL NOTICE IN SUPPORT OF
THEIR MOTION TO DISMISS**

Date: March 22, 2024
Time: 9:00 a.m.
Place: Courtroom 7, 19th Floor
Judge: Hon. Maxine M. Chesney

1 **[PROPOSED] ORDER**

2 Defendants Internet Archive, Brewster Kahle, George Blood, and George Blood L.P. have
 3 requested that the Court consider the following exhibits under the doctrine of incorporation by
 4 reference and Federal Rule of Evidence 201:

- 5 1. **Exhibit A:** A copy of the July 22, 2020, letter sent by Kenneth L. Doroshow on
 6 behalf of the Recording Industry Association of America (“RIAA”) to the Internet
 7 Archive, first referenced at paragraph 80 of the complaint.
- 8 2. **Exhibit B:** A copy of the August 21, 2020, response to the RIAA’s letter sent by
 9 Brewster Kahle on behalf of the Internet Archive, referenced at paragraph 81 of the
 10 complaint.
- 11 3. **Exhibit C:** A copy of Kelsey Kennedy, *A Wayback Machine for Early 20th*
 12 *Century Tunes, Atlas Obscura* (May 4, 2017),
 13 <https://www.atlasobscura.com/articles/internet-archive-78-records-phonograph>.
- 14 4. **Exhibit D:** A copy of Dani Deahl, *Over 50,000 Digitized Pieces of Vinyl Can Now*
 15 *Be Listened to on Internet Archive*, *Verge* (Aug. 12, 2017),
 16 <https://www.theverge.com/2017/8/12/16126346/50000-digitized-vinyl-internet-archive-great-78-project>.
- 17 5. **Exhibit E:** A copy of Daniel Sanchez, *30,000 Dusty 78rpm Vinyl Records Are*
 18 *Now in a Digital Archive*, *Digit. Music News* (Aug. 10, 2017),
 19 <https://www.digitalmusicnews.com/2017/08/10/78rpm-vinyl-records-digital-archive/>.
- 20 6. **Exhibit F:** A copy of Dan DeLuca, *“The Great 78 Project” Is Giving History*
 21 *Digital Life, in Chestnut Hill*, *Phila. Inquirer* (Sept. 14, 2017),
 22 <https://www.inquirer.com/philly/entertainment/music/great-78-project-vinyl-archive-chestnut-hill-20170915.html>.
- 23 7. **Exhibit G:** A copy of Alexa Vazquez, *The Boston Public Library Owns 200,000*
 24 *Vinyl Records—And It’s Putting Them All Online*, *WBUR* (Oct. 11, 2017),
 25 <https://www.wbur.org/news/2017/10/11/boston-library-vinyl-records>.

8. **Exhibit H:** A copy of Joe Kukura, *Internet Archive Trying to Digitize Every Old Record in Existence*, SFist (Aug. 24, 2017), https://sfist.com/2017/08/24/internet_archive_trying_to_digitize/.

9. **Exhibit I:** A copy of Emma Taggart, *Listen to the Sounds of the Past With Over 70,000 Digitized 78 RPM Records Online*, My Modern Met (Feb. 26, 2018), <https://mymodernmet.com/78-rpm-records-digital-archive/>.

8 The Court, having considered Defendants' request, and good cause appearing therefrom,
9 finds that Exhibits A through I are incorporated by referenced in the complaint and/or are subject
10 to judicial notice, and therefore are properly subject to consideration in connection with
11 Defendants' motion to dismiss the complaint. Defendants' request for incorporation by reference
12 and for judicial notice is therefore **GRANTED**.

IT IS SO ORDERED.

15 Dated: _____ By: _____
16 HON. MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE